IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

(1) Contempt Petition No.40 of 2007
in
Appeal No.1051 of 1987
in
Writ Petition No. 2551 of 1987

Shere-E-Punjab Cooperative
Housing Society Ltd. ..Petitioner

vs.

1. The Municipal Corporation
of Gr.Mumbai and others ..Respondents

Mr.P.N.Ghalsashi i/b Mr.A.S.Sakhalkar for petitioner.
Mr.A.R.Joshi for respondent Corporation.

(2) Contempt Petition No.45 of 2007
in
Suit No.271 of 2003

Messrs.Tolaram & Company ..Petitioner

vs.

1. Sher-e-Punjab Cooperative
Housing Society and ors. ..Respondents

(3) Contempt Petition No.46 of 2007
in
Suit No.272 of 2003

M/s Omprakash and Company ..Petitioner

vs.

1. Sher-E-Punjab Cooperative
Housing Society and others ..Respondents

(4) Contempt Petition No.47 of 2007
in
Suit No.857 of 2004

Jasoda Tolaram Kukreja & ors. ..Petitioners

vs.

1.Sher-E-Punjab Cooperative
Housing Society and ors. ..Respondents

Ms.Alpana Ghone i/b M/s DSK Legal for petitioners in Contempt Petition Nos.45, 46 and 47 of 2007.
Mr.R.A.Thorat i/b Mr.R.D.Thorat for respondent nos.1,3 and 5 in C.P.No.45, 46 and 47 of 2007.
Mr.H.C.Mehta i/b M/s Mehta and Co. for respondent no.2 in C.P.Nos.45, 46 and 47 of 2007.
Mr.A.R.Joshi for respondent corporation in C.P.Nos.45, 46 and 47 of 2002.

CORAM: S.C.DHARMADHIKARI J.
6th July, 2007

P.C.

1. These contempt petitions are posted today for orders pursuant to the statement made by the learned Counsel appearing for the parties that the dispute between the petitioner and respondent no.1 society the compliance with clauses 1, 3 and 5 of the consent terms which have been filed in this Court in suit no.271 of 2003 has been resolved.

2. The petitioner/original plaintiff had filed this petition praying that this Court should take action against respondent nos. 2 to 5 under the Contempt of Courts Act, 1971 for committing breach of the undertakings which have been recorded by this Court in its order dated 6th April, 2004.

3. From the affidavits that have been filed in reply to the petition, it transpires that the petitioner/plaintiff’s right, subject to the consent terms

and the agreements recorded therein, with regard to the Transferable Development Rights (TDR) and obtaining the Development Regulation Certificate in pursuance thereof has not been disputed by respondent no.1 society. It appears that there was a communication addressed in this behalf to Mumbai Municipal Corporation based upon which there was some delay in the Mumbai Municipal Corporation sanctioning the rights and issuing the certificate infavour of the petitioner/plaintiff. It further appears from perusal of the replies and annexures thereto that the communication of September, 2006 was addressed as the society and the petitioner were objecting to the imposition of a condition (cl.10) by the B.M.C. Now, the parties have jointly resolved the issue and have approached the Corporation for deleting the condition imposed by the Corporation for issuance of the said certificate. Now, it is understood by the parties that the condition, if imposed, would be jointly challenged by initiating appropriate proceedings. It is not as if that respondent no.1 had given up all rights in law but the step is in in compliance with the orders passed by this Court and undertakings recorded. This has clarified the matter and save and except the condition imposed, the first respondent society would not object to the issuance of the certificate.

4. It is in these peculiar circumstances and noting that

the issue of alleged breach, if any, in complying with the undertaking as recorded by this Court in its order dated 6th April, 2004 need not be pursued further. It is not necessary to initiate any action under the Contempt of Courts Act,1971 as I am satisfied from perusal of the record that both sides agree that compliance is made with the undertakings as recorded in the order. The contempt proceedings are, therefore, dropped. The petitions are dismissed accordingly.

(S.C.DHARMADHIKARI J.)